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JUN 22 2006
OFFICE OF PETITIONS

In re Application of :
Loucks, Scherer, and Reber : DECISION ON PETITION AND
Application No. 10/773,389 : DECISION ACCORDING STATUS
Filed: 5 February, 2004 : UNDER 37 CFR 1.47(a)
Atty Docket No. 29939/03004A :
:

This is a decision in response to the "Petition Under 37 C.F.R. 1.47(A) Accompanying Petition to Revive Under 37 C.F.R. §1.137(B)" filed on 10 November, 2005, which is treated as a petition under 37 CFR 1.137(b)¹ and 37 CFR 1.47(a).

The petitions are **GRANTED**.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 11 December, 2004, for failure to timely file a reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 10 May, 2004, which required an executed oath or declaration and a surcharge for its late filing. The Notice set a two (2) month shortened period for reply. On 10 December, 2004, a five (5) month extension of time under 37 CFR 1.136(a) was obtained. The oath and declaration and surcharge for its late filing required by the Notice were not filed, however. Notice of Abandonment was mailed on 5 February, 2005.

Petition Under 37 CFR 1.137(b)

As the petition under 37 CFR 1.47(a) is grantable, the reply required by 37 CFR 1.137(b)(1) has now been provided, and the petition to revive is granted.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Petition Under 37 CFR 1.47(a)

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have provided a copy of the envelope showing that letter was sent to the non-signing inventor's last known address, but was returned as undeliverable. Further, petitioners have shown, via the declarations Muriel K. Gallaher and Meggan F. Duffy that despite diligent efforts, the non-signing inventor, Fred Reber, could not be located to sign the declaration naming him as a joint inventor along with Brandi Loucks and Thomas W. Scherer.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D. Wood
Douglas I. Wood
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Office of Petitions



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OFFICE OF PETITIONS

In re Application of
Loucks et al.
Application No. 10/773,389
Filed: 5 February, 2004
For: LAUNDRY BASKET WITH HIP HUGGING FEATURE

Dear Mr. Reber:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

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